



# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
<http://dpw.lacounty.gov>

GAIL FARBER, Director

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

April 03, 2012

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

## ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

22 April 3, 2012

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

**AGREEMENT BETWEEN THE LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40, ANTELOPE VALLEY, AND  
THE CITY OF LANCASTER TO CONSTRUCT A PORTION OF  
THE PIPELINE PROPOSED IN THE 10TH STREET WEST  
TRANSMISSION MAIN PHASE III PROJECT  
(SUPERVISORIAL DISTRICT 5)  
(3 VOTES)**

### **SUBJECT**

This action is to authorize the Director of Public Works or her designee to execute a Cooperative Agreement with the City of Lancaster to construct a portion of the pipeline proposed in the 10th Street West Transmission Main Phase III Project.

### **IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40, ANTELOPE VALLEY:**

Authorize the Director of Public Works or her designee to execute a Cooperative Agreement on behalf of the Los Angeles County Waterworks District No. 40, Antelope Valley, with the City of Lancaster for the construction of a portion of the pipeline proposed in the 10th Street West Transmission Main Phase III Project for a not-to-exceed cost of \$900,000.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The 10th Street West Transmission Main Phase III Project consists of constructing approximately 7,900 linear feet of 30-inch-diameter water transmission main along 10th Street West between Lancaster Boulevard and Avenue H within the City of Lancaster. The proposed

pipeline will complete a transmission loop encompassing Avenue K, Avenue H, 10th Street West, and 20th Street East, which will improve the water transmission capacity of the District's distribution system in that area. The project is in the design phase and construction is expected to begin in 2014.

The purpose of the recommended action is to authorize the Director of Public Works or her designee to execute a Cooperative Agreement between the Los Angeles County Waterworks District No. 40, Antelope Valley (District), and the City of Lancaster (City) substantially similar to the enclosed Cooperative Agreement to construct a 1,400-foot portion of the 10th Street West Transmission Main Phase III Project that overlaps with the City's construction of a roundabout at the intersection of Lancaster Boulevard and 10th Street West. The City's roundabout project is scheduled to begin in January 2013. Installation of the overlapping portion of our pipe by the City would allow us to avoid the costly jacking and boring under the newly constructed roundabout. The City will install our pipe using the less expensive open trench installation method.

Through this Cooperative Agreement, the District would design and pay the City for construction of 1,400 feet of pipeline along 10th Street West. The City would advertise, award, and manage the construction of our pipeline concurrently with their roundabout project. Payment to the City by the District would be due two weeks after their receipt of the lowest responsible bid for the pipeline installation. Once constructed, the pipeline would be owned, operated, and maintained by the District.

#### **Implementation of Strategic Plan Goals**

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) and Community and Municipal Services (Goal 3). The recommended action will help fulfill these goals by improving water service reliability for domestic and fire demands for the District's customers in the City of Lancaster.

#### **FISCAL IMPACT/FINANCING**

There will be no impact on the County General Fund.

The estimated cost to complete the portion of our project that overlaps with the City's roundabout project is approximately \$900,000, which includes construction cost, contingency, and the City cost to manage the project. Sufficient funds to cover the cost of this work are included in the District's Accumulated Capital Outlay Fund (N64) budget for Fiscal Year 2012-13.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Cooperative Agreement provides for the District to submit 100 percent of the construction cost to the City based on the competitive bid that is accepted for award. The District will submit an additional 10 percent of the construction cost as contingency for unforeseen items that may occur and another 10 percent for costs incurred by the City to advertise, award, and administer the construction contract.

The Cooperative Agreement has been reviewed and approved as to form by County Counsel.

**ENVIRONMENTAL DOCUMENTATION**

On November 29, 2011, your Board approved the Negative Declaration for the 10th Street West Transmission Main Phase III Project. The proposed construction of a portion of the project does not introduce any substantial change in circumstances regarding the project's environmental effects.

Execution of the Cooperative Agreement is not subject to provisions of the California Environmental Quality Act (CEQA) Guidelines because it is an activity that is excluded from the definition of a project by Section 15378(b) of the CEQA Guidelines. The proposed action is an administrative activity of government, which will not result in direct or indirect physical changes to the environment.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There will be no negative impact on current County services or projects during the performance of the recommended services.

**CONCLUSION**

Please return two adopted copies of this letter to the Department of Public Works, Waterworks Division.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gail Farber".

GAIL FARBER

Director

GF:AA:ea

Enclosures

c: Chief Executive Office (Rita Robinson)  
County Counsel  
Executive Office

## COOPERATIVE AGREEMENT

THIS Agreement, ("AGREEMENT") made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Lancaster, (hereinafter referred to as "CITY"), and Los Angeles County Waterworks District No. 40, Antelope Valley (hereinafter referred to as "DISTRICT") and together hereinafter referred to as "PARTIES":

### DEFINITIONS:

**PROJECT** - The PROJECT, for the purpose of this AGREEMENT is a portion the DISTRICT'S 10th Street West Transmission Main Phase III Project scheduled for construction in 2014. The PROJECT consists of the installation of approximately 1,400 linear feet of 30-inch-diameter Cement Mortar Coated (CMC) and Centrifugally Applied Cement Mortar Lined (CML) steel water transmission main along 10th Street West between Lancaster Boulevard and Jackman Street within the City of Lancaster.

**ROUNDAABOUT** - For the purpose of this AGREEMENT, the ROUNDAABOUT is the CITY'S proposed traffic circle at the intersection of Lancaster Boulevard and 10th Street West scheduled for construction in January 2013.

**LOWEST RESPONSIVE AND RESPONSIBLE BIDDER** - The qualified general engineering contractor with an A, C-34, and C-60 licenses with a minimum of three (3) years experience in construction of CMC and CML water mains that provided the CITY with the lowest responsive and responsible bid.

## WITNESSETH

WHEREAS, the CITY proposes to construct a ROUNDAABOUT at the intersection of 10th Street West and Lancaster Boulevard in the City of Lancaster in January 2013; and

WHEREAS, a portion of the PROJECT'S proposed pipeline is directly under the proposed ROUNDAABOUT; and

WHEREAS, installation of the overlapping pipeline portion of the PROJECT will be more difficult and expensive after the ROUNDAABOUT is in place; and

WHEREAS, installation of the overlapping portion of the PROJECT after the ROUNDAABOUT is in place would cause additional traffic impacts to CITY residents;

NOW, THEREFORE, in consideration of the benefits to be derived by the PARTIES and of the promises herein contained, it is hereby agreed as follows:

(I) CITY AGREES:

- A. To facilitate the DISTRICT'S design activities, including but not limited to providing necessary permits and clearances for surveying, soil testing, and other reasonable tests of site conditions. If soil tests determine that the road or road base is structurally substandard, the CITY agrees to pay for and not hold the DISTRICT responsible for restoration costs beyond the water main trench pavement restoration specified in the plans and specifications (hereinafter referred to as DESIGN DOCUMENTS).
- B. To cooperate with the DISTRICT in the design of the PROJECT including but not limited to providing the ROUNDABOUT'S plans and specifications and any CITY site inspection information to the DISTRICT without cost.
- C. To cooperate with the DISTRICT with inclusions in the Invitation for Bids (IFB) of prequalification and experience requirements for the contractor, subcontractors, and suppliers as recommended by the DISTRICT for the PROJECT construction. To ensure that the construction contract has a termination for convenience clause without liability to the CITY and DISTRICT in a form acceptable to both parties. To ensure that the construction contract requires the contractor to be properly insured, that the contractor's insurance(s) is primary and non-contributing, and that the CITY, its agents and employees, the City Council, the DISTRICT, Los Angeles County, its agents and employees, and the Los Angeles County Board of Supervisors are named as an Additional Insureds, and that the contractor's insurance company(ies) provide a Waiver of Subrogation against the CITY, its agents and employees, the City Council, the DISTRICT, Los Angeles County, its agents and employees, and the Los Angeles County Board of Supervisors.
- D. To advertise PROJECT for construction bids, to award and administer the construction contract to the LOWEST RESPONSIVE AND RESPONSIBLE BIDDER ("Contractor") subject to the approval of funding by the Los Angeles County Board of Supervisors acting as the Board of Directors of the DISTRICT, and to do all things necessary and proper to complete PROJECT on time and on budget pursuant to DESIGN DOCUMENTS approved by the DISTRICT. The CITY agrees to honor any DISTRICT'S request to terminate the construction contract for convenience.
- E. To the extent possible, the CITY shall afford the DISTRICT the opportunity to review and comment on all contract modifications, including change orders, prior to issuance to the contractor of a Notice to Proceed. In any instance where providing the DISTRICT with notification of a contract modification or change order is not possible prior to issuance of the Notice to Proceed, the

CITY shall provide such notification in writing at the earliest date possible. To the extent possible, the CITY also shall afford the DISTRICT the opportunity to review and comment on all claims prior to resolution thereof. The CITY shall consider in good faith the comments of the DISTRICT but the contents of solicitations, award of contracts, execution of contract modifications, issuance of change orders, resolution of contract claims, and performance of all work on the PROJECT (whether the work is performed under contract or by CITY personnel), shall be exclusively within the control of the CITY, subject to the limits of funding authorized by the Los Angeles County Board of Supervisors acting as the Board of Directors of the DISTRICT.

- F. To forward Contractor submittals and Requests for Information (RFIs) for the PROJECT to the DISTRICT for review and final approval in a timely manner, and to allow the DISTRICT, to the extent possible without causing delay to ROUNDABOUT construction, a minimum response time of fourteen (14) calendar days from receipt of such documents by DISTRICT'S project manager.
- G. To perform all acts required by or in connection with the requirements of the Negative Declaration that was adopted by the Los Angeles County Board of Supervisors on November 29, 2011, in compliance with the California Environmental Quality Act (CEQA) for the construction of the PROJECT.
- H. To cooperate with the DISTRICT in the acquisition of all necessary State, local, or other needed regulatory approvals or applicable permits (collectively PERMITS) and to provide necessary CITY permits at no fee to DISTRICT.
- I. To resolve any bidder or potential bidder protests to the IFB, to prosecute any bidder non-responsibility hearings or Contractor debarment hearings, if in the opinion of the CITY, such actions are warranted.
- J. To notify DISTRICT seventy-two (72) hours in advance of the start of construction of PROJECT so that the DISTRICT may furnish an inspector, at no cost to CITY, to inspect construction of the PROJECT. The CITY'S inspector shall consult with DISTRICT'S inspector with respect to the PROJECT, but the CITY inspector's instructions to the CITY'S Contractor shall be final.
- K. To forward any and all change order requests for the PROJECT to the DISTRICT for review and comment and to allow, to the extent possible without causing delay to ROUNDABOUT construction, the DISTRICT a minimum response time of five (5) working days from receipt of the request by the DISTRICT'S project manager.

- L. To furnish for approval by the DISTRICT, within sixty (60) days after acceptance of PROJECT by Lancaster City Council, a final accounting of the actual cost of PROJECT.
- M. To furnish DISTRICT, within sixty (60) days after acceptance of PROJECT by Lancaster City Council, a reproducible set of as-built drawings of PROJECT.
- N. To return to DISTRICT any remaining unused contingency funds within thirty (30) days of acceptance of final accounting and receipt of as-built drawings for PROJECT.

(II) DISTRICT AGREES:

- A. To prepare the final design plans, specifications, and engineer's estimate, and submit to the CITY no later than September 10, 2012, for the CITY'S use in competitively bidding and awarding a construction contract for the PROJECT.
- B. To prepare and submit a Board letter requesting authorization from the County of Los Angeles Board of Supervisors for funding of the PROJECT in an amount consistent with the engineer's estimate.
- C. Following opening of construction bids for PROJECT and selection of the LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, upon receipt of a written invoice from CITY, to deposit with CITY one hundred percent (100%) of the LOWEST RESPONSIVE AND RESPONSIBLE BIDDER'S bid amount accepted by the CITY for award for the construction of the PROJECT (herein after referred to as CONSTRUCTION COST) and to make such payment within two (2) weeks of receipt of invoice from CITY.
- D. To deposit with CITY ten percent (10%) of the CONSTRUCTION COST as contingency for unforeseen items that may occur, within two (2) weeks of receipt of invoice from the CITY.
- E. To deposit with CITY ten percent (10%) of the CONSTRUCTION COST, within two (2) weeks of receipt of invoice from the CITY, for the CITY to award and administer the construction contract, and to do all things necessary and proper to complete the PROJECT in accordance with the design documents.
- F. To obtain and maintain all necessary PERMITS, including, without limitation, performing all acts required for the construction and operation of the PROJECT.
- G. To provide a full-time Waterworks inspector to assist the CITY'S inspection staff in all matters related to the PROJECT construction.

- H. To review and respond to all engineering submittals and RFIs for the PROJECT within fourteen (14) calendar days from receipt of such documents by the DISTRICT'S project manager.
- I. To review and respond to all change order requests for the PROJECT within five (5) working days from receipt of such requests by the DISTRICT'S project manager.
- J. To fully reimburse CITY for the actual cost of construction of the PROJECT, consisting of the following: (1) the actual costs of the Contractor as approved in the CONSTRUCTION COST, (2) the actual costs associated with approved change orders, and (3) ten percent (10%) of the CONSTRUCTION COST for the CITY'S administrative services fee.
- K. Payment by the DISTRICT for a shortage or reimbursement by the CITY of an overage, shall be made within sixty (60) days of receipt of a written invoice or written statement from CITY upon: (1) completion of the PROJECT pursuant to the design documents and to the DISTRICT'S satisfaction; (2) acceptance of the PROJECT by Lancaster City Council; and (3) delivery by the CITY to the DISTRICT of a final accounting that shows the actual PROJECT costs as identified in Section (II)I (hereinafter referred to as FINAL ACCOUNTING).

(III) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- A. The DISTRICT and CITY mutually agree to construct the PROJECT in advance and/or concurrently and/or in conjunction with the construction of the ROUNDABOUT to lessen construction costs of the pipeline and to minimize traffic impacts to CITY residents.
- B. The DISTRICT, as the Engineer of Record for the PROJECT, shall, to the extent possible without causing delay to ROUNDABOUT construction, have final approval authority on all technical matters including but not limited to engineering submittals, shop drawings, RFIs, etc.
- C. Funding for any and all proposed change orders exceeding the CONSTRUCTION COST, plus ten percent (10%) requires prior approval by the Los Angeles County Board of Supervisors acting as the Board of Directors of the DISTRICT.
- D. The DISTRICT shall have the right to review and approve the FINAL ACCOUNTING and verify the accuracy and validity of the CONSTRUCTION COSTS of PROJECT prior to final payment from the CITY to the Contractor and/or release of the CITY'S retention to the Contractor. The DISTRICT reserves the right to adjust the final payment based on a review of the FINAL ACCOUNTING.



- E. Upon project acceptance of the PROJECT by CITY Council from the Contractor, the DISTRICT will be granted sole ownership of the facilities constructed by the PROJECT from the CITY without any cost or delay.
- F. To the extent that liability is imposed on either party pursuant to the provisions of Government Code § 895.2, each party shall indemnify, defend, protect, hold harmless, and release the other, their elected bodies, officers, agents, and employees, from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful misconduct of such indemnifying party. This indemnification obligation shall not be limited in any way by any limitation of the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts. This provision shall survive termination of this AGREEMENT.
- G. That the provisions of all General Services Agreement or Assumption of Liability Agreement including but not limited to GSA No. 76146 and Assumption of Liability Agreement No. 32064 shall not apply to this AGREEMENT or the PROJECT.
- H. The AGREEMENT funding amount is limited to the CONSTRUCTION COST amount, plus twenty percent (20%) of the CONSTRUCTION COST as set forth in Section (II)D and (II)E of this AGREEMENT, unless a higher amount is subsequently approved by the Los Angeles County Board of Supervisors acting as the Board of Directors of the DISTRICT. The PARTIES each agree that the costs identified in Section (II)J are the entire costs of the PROJECT, and no other costs are contemplated or covered by this AGREEMENT.
- I. This AGREEMENT may be amended or modified only by mutual written consent of both PARTIES.
- J. This AGREEMENT constitutes the full and complete understanding of the parties regarding the design and construction of the PROJECT. This AGREEMENT hereby supersedes any prior or contemporaneous agreements between the parties regarding the foregoing matters. This AGREEMENT, hereby incorporates by reference, the DESIGN DOCUMENTS and the executed Construction Contract between the CITY and Contractor.
- K. This AGREEMENT will expire on its own terms pursuant to completion of the PROJECT, including but not limited to the transference of the PROJECT to the DISTRICT and payment from the DISTRICT to the CITY for the CONSTRUCTION COST, the DISTRICT-approved change orders, and CITY'S administrative fee of ten percent (10%) of the CONSTRUCTION

COST, or January 1, 2015, whichever is earlier, unless extended in writing by both parties.

- L. If the PROJECT is terminated for convenience, this AGREEMENT will likewise be terminated for convenience at the completion of the reasonable and necessary steps to bring a close to the PROJECT, whether completed or not. No loss of profits, overhead, or unearned administrative fee or any other claims shall accrue to either the CITY or DISTRICT in such a termination for convenience. Both Parties agree to cooperate in the termination, and as against any Contractor, Subcontractor, and Supplier for claims related to or arising out of the termination, if any.
- M. The DISTRICT, whenever the interests of the DISTRICT so require, may request the CITY to terminate the Contract, in whole or in part, for the convenience of the DISTRICT. The CITY will give written notice of the termination to the Contractor specifying the part of the Contract terminated and the date termination becomes effective. The Contractor shall incur no further obligations in connection with the terminated work, and, on the date set in the notice of termination, the Contractor shall stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The CITY may direct the Contractor to assign the Contractor's right, title, and interest under the terminated orders or subcontracts to the CITY or DISTRICT. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so. The CITY may require the Contractor to transfer title and deliver to the DISTRICT, in the manner and to the extent directed by the DISTRICT, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated and other property that, if the Contract had been completed, would be required to be furnished to the DISTRICT. The Contractor shall, upon direction of the CITY, protect and preserve property in the possession of the Contractor in which the DISTRICT has an interest. If the DISTRICT does not exercise this right, the Contractor shall use its best efforts to sell such supplies and manufacturing materials for the benefit of the DISTRICT.

If the parties are unable to agree on the amount of a termination settlement, the CITY will pay the Contractor the following amounts:

- a. For Contract work performed before the effective date of termination, the total (without duplication of any items) of: (i) the cost of work completed in accordance with the DESIGN DOCUMENTS based on the quantity constructed and the Contract Unit Price or lump sum Bid price of the respective Bid item less prior progress payments, and any applicable

Liquidated Damages and any other deductions or withholds to which the CITY may be entitled to in accordance with applicable law, including the amounts of outstanding Stop Notices or labor compliance notices to withhold shall be withheld until the Stop Notices or notices to withhold are resolved as provided by law; and (ii) the cost of settling and paying terminated subcontracts and orders that are properly chargeable to the terminated portion of the work.

- b. The reasonable costs of effectuating the settlement of the work terminated, including: (i) accounting, clerical, and other expenses reasonably necessary for the preparation of termination settlement bids and supporting data; (ii) the termination and settlement of subcontracts (excluding the amounts of such settlements); and (iii) storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- N. All communication regarding enforcement of the terms of this AGREEMENT will be made in writing (email or written correspondence) between the DISTRICT'S Project Manager and the CITY'S Project Manager.
- O. Except as provided herein, this AGREEMENT is intended solely for the benefit of the CITY and the DISTRICT, not any third parties.
- P. Each person signing this AGREEMENT represents to have the necessary power and authority to bind the entity on behalf of which said person is signing and the other party can rely on that representation.
- Q. Each PARTY has received independent legal advice from its attorneys with respect to the advisability of executing this AGREEMENT and the meaning of the provisions hereof. This AGREEMENT has been drafted through a joint effort of the PARTIES and their counsel and therefore shall not be construed against either of the Parties in its capacity as draftsman but in accordance with its fair meaning.

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IN WITNESS WHEREOF, the PARTIES hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF LANCASTER on \_\_\_\_\_, 2012, and by the LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40, ANTELOPE VALLEY, on \_\_\_\_\_, 2012.

CITY OF LANCASTER

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

By \_\_\_\_\_  
Mark V. Bozigian  
City Manager

By \_\_\_\_\_  
Gail Farber  
Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JOHN F. KRATTLI  
Acting County Counsel

By \_\_\_\_\_  
David R. McEwen  
City Attorney

By Michael Moore,  
Deputy *by gw*

APPROVED BY DEPARTMENT HEAD:

By \_\_\_\_\_  
Robert C. Neal  
Director of Public Works

ATTEST:

By: \_\_\_\_\_  
Geri K. Bryan, CMC  
City Clerk